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10/522,507	01/17/2006	Igor Pereverzev	19339-100309	3456

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EXAMINER

FULTON, KRISTINA ROSE

ART UNIT	PAPER NUMBER
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3673

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04/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,507	Applicant(s) PEREVERZEV, IGOR	
	Examiner KRISTINA R. FULTON	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed 3/25/09. Claims 1-5 and 7-8 are pending.

Allowable Subject Matter

The indicated allowability of claims 4 and 5 is withdrawn in view of the newly applied reference(s). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 and 7-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 1 and 7-8 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the counterweight and the means for toggling. Currently the claims require the inertia lever to move upon impact but the proper function of the latch device during impact can not be achieved without the use of a counterweight as disclosed in the specification. The counterweight must be claimed. Further, the claims require a slot for engaging the inertia lever "for automatically toggling" the inertia lever. This is unclear and appears to be missing

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essential elements such as a spring? The lever can not be toggled without a means to return the lever to an original position. Further clarification is necessary.

4. Further regarding claims 1 and 7-8, the release lever and latch hook engagement is unclear. Are these components directly engaged? It appears that a pawl may be necessary for function between the release lever and latch hook. Further clarification is necessary.

5. Further regarding claims 1 and 7-8, the normal operation of the latch should be included for a clear understanding of the movement and differing position during a side impact (as claimed). Applicant should include language such as "in a normal operating position the inertia lever engages the slot of the release lever to allow rotation of the release lever and release of the latch mechanism where upon side impact, the inertia lever moves out of the slot of the release lever due to the counterweight and prevents rotation of the release lever". Applicant is advised to use terminology from the specification to clearly define the function of the latch mechanism.

6. Regarding claims 2-3 and 8, the first position of the inertia lever is defined as being out of engagement with the release lever (claim 2) yet the inertia lever tab and the release lever slot are engaged (claim 3) when the inertia lever is in the first position. This is unclear and requires clarification.

7. Claims 4-5 are rejected based on their dependency of claims 1-2.

8. The claims have been examined "as best understood" until the aforementioned U.S.C. 112 rejections are overcome.

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Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

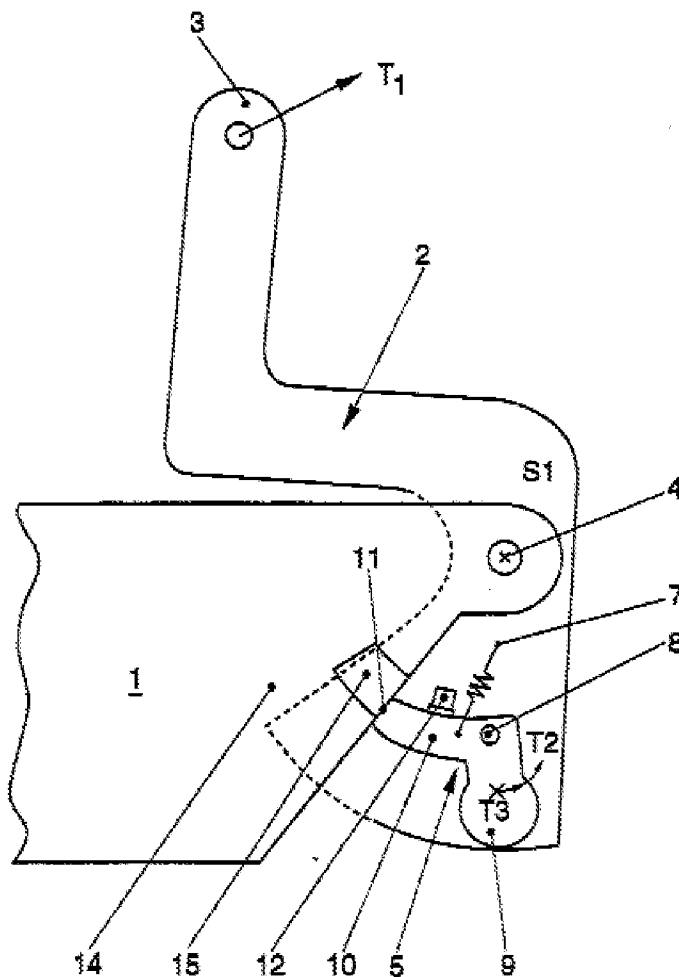
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-5 and 7-8 are rejected “as best understood” under 35 U.S.C. 103(a) as being unpatentable over Koeppen DE19738492

4. Regarding claim 1, Koeppen shows a latch mechanism for selectively latching a door to an automotive vehicle, said latch mechanism comprising a latch hook (see abstract; locking mechanism) movable between a locked position and an unlocked position, a release lever (1) operatively coupled to said latch hook for selectively moving said latch hook between said locked and unlocked positions; and an inertia lever (2) engageable with said release lever to prevent movement of said latch hook between said locked and unlocked positions, said inertia lever movably supported within said latch mechanism for moving in and out of engagement with said release lever in response to a side impact upon the vehicle (see abstract for explanation of motion

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relative to change in acceleration); wherein said release lever includes a slot (15) presenting sides for engaging a portion of said inertia lever for automatically toggling said inertia lever in response to movement of said release lever to prevent seizing of said inertia lever within the latch mechanism. See the Koeppen device below.



5. Regarding claim 2, Koeppen shows a means for biasing (7) the inertia lever to a first position out of engagement with said release lever.

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6. Regarding claim 3, Koeppen shows the inertia lever has a tab (11) and said slot of said release lever is aligned with and engages the tab when the release lever is actuated to unlock the latch hook and the inertia lever is in the first position (see figure 2 where 11 is in 15 allowing rotation).

7. Regarding claim 4, side impact moves the inertia lever to a second position (figure 3) so that the tab and slot are not aligned.

8. Regarding claim 5, the inertia lever is pivotally mounted within said latch mechanism (pivot point T1).

9. Claim 7 is rejected by Koeppen as applied to claim 1 above where Koeppen further shows a housing (see abstract) wherein “as best understood” until further detail is provided regarding the release lever and latch hook engagement, the latch hook of Koeppen is on an opposite side than the release lever and inertia lever.

10. Claim 8 is rejected as applied to claims 1-4 above.

11. Please note that Koeppen does not particularly point out a side impact but does include a latch mechanism responsive to a change in acceleration. This would obviously include a side impact.

Response to Arguments

9. Applicant's arguments with respect to claims 1-5 and 7-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINA R. FULTON whose telephone number is (571)272-7376. The examiner can normally be reached on M-TH 7-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KRISTINA R FULTON/
Examiner, Art Unit 3673
4/6/09